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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,503	02/07/2006	Enea Garagnani	MI 6125 (US)	8964
34872	7590	07/16/2007		
BASELL USA INC. INTELLECTUAL PROPERTY 912 APPLETON ROAD ELKTON, MD 21921			EXAMINER CHOI, LING SIU	
			ART UNIT 1713	PAPER NUMBER
			MAIL DATE 07/16/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,503	Applicant(s) GARAGNANI ET AL.	
	Examiner Ling-Siu Choi	Art Unit 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Office Action is in response to the Response and Amendment file April 19, 2007. Claims 1-9 were canceled and claims 8-14 are now pending. In view of the Response and Amendment, claim objection and claim rejection under 35 USC ' 112 were withdrawn. The rejections of claims 8-11 and 13 under 35 U.S.C. 102(b) as being anticipated by DeNicola, Jr. et al. (US 5,286,791); the rejections of claim 12 under 35 U.S.C. 103(a) as being unpatentable over DeNicola, Jr. et al. (US 5,286,791); and the rejections of claim 14 under 35 U.S.C. 103(a) as being unpatentable over DeNicola, Jr. et al. (US 5,286,791) in view of Herman (US 5,174,384) are maintained.

Claim Analysis

2. Summary of Claim 8:

A polyolefin composition comprising		
A	60-85 wt%	a broad molecular weight distribution propylene polymer having a polydispersity index = 5-15 a melt flow rate =20-78 g/10 min [ASTM-D 1238, condition L]
B	15-40 wt%	a partially xylene soluble olefin polymer rubber comprising at least 65 wt% of ethylene

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Summary of Claim 12:

A process to prepare the polyolefin composition of Claim 8,
wherein the monomers are polymerized in the presence of stereospecific catalyst supported on active magnesium halide in active form in at least three sequential steps
wherein components A and B are prepared in separate subsequent steps, operating in each step in the presence of the polymer formed and the catalyst used in the immediately preceding step

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 8-11 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by DeNicola, Jr. et al. (US 5,286,791).

DeNicola, Jr. et al. disclose an impact-modified graft copolymer composition to be used in an inject molding to make an article, comprising (A) 10-90 wt% of graft copolymer, (B) 90-10 wt% of at least one propylene polymer having a wide molecular weight distribution, and (C) 2-40 wt% of at least one rubber component, wherein the component B has a molecular weight distribution of 8-60 and a melt

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flow rate of 0.5-50 g/10 min; the component C can be an ethylene-propylene copolymer rubber having 30-70% ethylene content (abstract; col. 4, lines 25-31; col. 7, lines 33, 46-48, and 62-63; Examples 1-5-especially line 9; claims 1 and 4). DeNicola, Jr. also disclose that the composition further comprises about 10-100 pph of a filler which can be talc, a calcium carbonate, and silicate (col. 3, lines 25-32; col. 10, lines 36-43). It is noted that the ethylene-propylene copolymer rubber reads on the partially xylene soluble olefin polymer rubber. Thus, the present claims are anticipated by the disclosure of DeNicola et al.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeNicola, Jr. et al. (US 5,286,791).

The rejection is adequately set forth in paragraph 9 of the Office Action dated **11/02/2006** and is incorporated herein by reference.

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over

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DeNicola, Jr. et al. (US 5,286,791) in view of Herman (US 5,174,384).

The rejection is adequately set forth in paragraph 10 of the Office Action dated **11/02/06** and is incorporated herein by reference.

Response to the Applicants' Arguments

8. Applicants' arguments filed **04/19/2007** have been fully considered but they are not deemed to be persuasive.

"applicant respectfully believes the very broad, generic disclosure of the propylene copolymer material in DeNicola, Jr., et al. clearly does not anticipate Applicant's specifically claimed component (A), let alone the specifically claimed range of 60 to 85% by weight of component (A)" (paragraph bridging pages 6 and 7).

The component claimed in the present claims is referred to the component B instead of component A, wherein component B is propylene polymer having a wide molecular weight distribution (90-10 wt%) and has a molecular weight distribution of 8-60 and a melt flow rate of 0.5-50 g/10 min. Thus, the claim rejections are maintained.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on 571-272-1114.



LING-SUI CHOI
PRIMARY EXAMINER

July 7, 2007